

Application Number 10/731,699
Responsive to Office Action mailed December 15, 2005

REMARKS

This Amendment is responsive to the Final Office Action dated December 15, 2005. Applicant has identified a typographical error in the Listing of Claims submitted with the previous Amendment, dated September 26, 2005. In particular, two claims were given the number "24" in the previous Listing of Claims. Applicant has amended the second claim numbered "24" to be numbered "25." Accordingly, claims 1, 3-15 and 17-25 are pending.

Applicant respectfully requests entry of this after-final claim amendment. The amendment has no impact on the scope of the claims and, accordingly, raises no new issues and requires no further search.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

In the Final Office Action, the Examiner rejected: claims 1, 3, 5¹, 7, 8, 11, 12 and 14-25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,399,820 to Wirtzfeld et al. (Wirtzfeld); claims 4 and 9-10 under 35 U.S.C. § 103(a) as being unpatentable over Wirtzfeld in view of U.S. Patent No. 6,490,486 to Bradley (Bradley); claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Wirtzfeld in view of U.S. Patent No. 6,176,879 to Reischl et al. (Reischl); and claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Wirtzfeld in view of U.S. Patent No. 5,776,169 to Schroepel. (Schroepel). Applicant respectfully traverses these rejections. Wirtzfeld fails to disclose each and every feature recited by of the claimed invention, as required by 35 U.S.C. 102(b). Further, Wirtzfeld, Bradley, Reischl and Schroepel provide no teaching that would have suggested the desirability of modification to include such features.

Claims 1, 3-6 and 24

For example, Wirtzfeld fails to disclose or suggest an overmold that at least partially encapsulates each of at least two housings and a coupling module, as required by Applicant's independent claim 1. In the Final Office Action, the Examiner cited col. 4, ll. 64-68 of Wirtzfeld as disclosing this requirement. However, the cited portion of Wirtzfeld describes a transparent protective jacket 39, which surrounds only the body of the measuring probe M.

¹ The Examiner did not address claim 5 in the Final Office Action. Applicant assumes that claim 5 is rejected under section 102 as anticipated by Wirtzfeld for the same reasons stated in the previous Office Action.

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Wirtzfeld does not describe or depict the jacket 39 as at least partially encapsulating each of at least two housings, as required by independent claim 1. The Examiner argued that the heart pacemaker HS and the measuring probe M are the at least two modules with respective housings required by claim 1. Even if this position were tenable, Wirtzfeld does not suggest any physical relationship between the jacket surrounding the measuring probe and the housing of the heart pacemaker, much less that the jacket at least partially encapsulates the housing of the pacemaker. Wirtzfeld depicts and describes the jacket only as part of the intracardiac measuring probe, which is located a significant distance from the extracardiac pacemaker.² Therefore, it is unclear how the jacket could possibly be considered an overmold that at least partially encapsulates each of at least two housings and a coupling module.

Accordingly, Wirtzfeld fails to disclose each and every feature of independent claim 1, as required for anticipation under section 102. Further, neither Wirtzfeld, nor any of the other applied references, provides any teaching that would have suggested modification to include the above-identified feature of claim 1. For at least these reasons, Applicant respectfully requests that the rejections of claims 1 and 3-6 be withdrawn.

Claims 7-15 and 17-23

Wirtzfeld fails to disclose or suggest a coupling module fixedly coupled to first and second housings, wherein the coupling module is made of a metal that defines at least one lumen between the first and second housings, as required by independent claim 7. Applicant made numerous arguments concerning the failure of Wirtzfeld to disclose or suggest this requirement of independent claim 7 in the previous Amendment. However, the Examiner did not even address the requirements of claim 7, much less Applicant's arguments, in the Final Office Action.

With respect to independent claim 1, the Examiner argued that the stimulation catheter K disclosed by Wirtzfeld is a coupling module that defines a lumen between housings. However, Wirtzfeld does not teach or suggest that the catheter is made of metal, as required by independent claim 7. Accordingly, the catheter disclosed by Wirtzfeld is not a coupling module within the meaning of claim 7.

² See Wirtzfeld, FIGS. 1 and 3.

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With respect to claim 17, which depends from claim 7, the Examiner argued that col. 4, ll. 30-40 of Wirtzfeld discloses a coupling module made of metal. This is the same argument that the Examiner offered in the previous Office Action. In view of Applicant's thorough discussion in the previous Amendment of the failure of Wirtzfeld, and particularly col. 4, ll. 30-40 of Wirtzfeld, to disclose or suggest the above-identified requirements of claim 7, Applicant is perplexed by the Examiner's continued assertion of the cited passage, and the apparent disregard for Applicant's discussion of Wirtzfeld.

The cited passage of Wirtzfeld discusses a metallic annular element 31. As clearly depicted in FIGS. 2-5 of Wirtzfeld, the metallic annular element is an internal component of the measuring probe M described by Wirtzfeld. Wirtzfeld does not teach or suggest that the annular element is fixedly coupled to first and second housings, as required by claim 7. The Examiner argued that the heart pacemaker HS and the measuring probe M are the two modules with respective housings required by claim 7. Wirtzfeld does not even suggest any physical relationship between the annular element and the heart pacemaker, much less that the annular element is fixedly coupled to the housing of the pacemaker.

Accordingly, Wirtzfeld fails to disclose each and every feature of independent claim 7, as required for anticipation under section 102. Further, neither Wirtzfeld, nor any of the other applied references, provides any teaching that would have suggested modification to include the above-identified feature of claim 7. For at least these reasons, Applicant respectfully requests that the rejections of claims 7-13 and 17-23 be withdrawn.

Claim 25

Wirtzfeld fails to disclose or suggest a coupling module that is hermetically fixed to at least one of first and second housings, as required by independent claim 25. As stated in the previous Amendment, Wirtzfeld does not discuss hermeticity at all, much less teach or suggest this requirement of claim 25.

The Examiner did not address this limitation in the previous Office Action, when it appeared only in claim 12. In the previous Amendment, Applicant argued that Wirtzfeld fails to teach or suggest a coupling module that is hermetically fixed to at least one of first and second housings, and added a new independent claim 25 including this limitation. The Examiner has

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now finally rejected the claims, but still has not even mentioned this limitation in the Final Office Action.

As stated above, and in the previous Amendment, Wirtzfeld does not discuss hermeticity at all, much less teach or suggest a coupling module that is hermetically fixed to at least one of first and second housings, as required by independent claim 25. Further the Examiner has not even attempted to identify any teaching in Wirtzfeld as disclosing or suggesting this limitation prior to finally rejecting the claim. The Examiner's final rejection of claim 25, without any explanation responsive to Applicant's arguments in the prior Amendment, is clearly contrary to the requirements of 37 C.F.R. § 1.104 and the Administrative Procedure Act. On this basis alone, the final rejection is improper, and should be withdrawn.

Wirtzfeld fails to disclose each and every limitation of independent claim 25. Further, neither Wirtzfeld, nor any of the other applied references, provides any teaching that would have suggested modification to include the above-identified limitation of claim 25. For at least these reasons, Applicant respectfully requests that the rejection of claim 25 be withdrawn.

Rejection for Obviousness-type Double Patenting:

The Examiner provisionally rejected claim 1 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/731,638.

Applicant notes the provisional status of this rejection. Accordingly, Applicant will address this issue if and when the rejection is formally applied, i.e., when the Application No. 10/731,638 is granted.

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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

2/15/06

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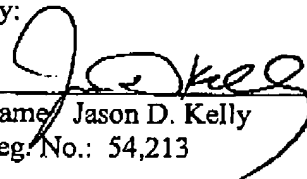
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